

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SOLAE, LLC,  
a Delaware limited liability company,

Plaintiff,

C.A. No. 1: 07-cv-00140

VS.

## JURY TRIAL DEMANDED

HERSHEY CANADA, INC.,  
a Canadian corporation,

Defendant.

**AFFIDAVIT PURSUANT TO D. DEL. LR 4.1 (b)**

STATE OF DELAWARE

$$\begin{array}{c} : \\ : \\ : \text{ SS} : \end{array}$$

COUNTY OF NEW CASTLE

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**BE IT REMEMBERED** that on this 7<sup>th</sup> day of May, A.D. 2007, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Katherine J. Neikirk, attorney for the Plaintiff, who being sworn according to law did depose and say as follows:

1. That to the best of her knowledge, the Defendant Hershey Canada, Inc. is a nonresident of the State of Delaware whose name and address is as follows:

Hershey Canada, Inc.  
2350 Matheson Blvd. E.  
Mississauga, Ontario, Canada L4W 5E9

2. That on March 9, 2007, the Complaint in the above-captioned action was filed and that on March 9, 2007 the Clerk issued a Summons to serve the Secretary of State pursuant to 10 Del. C. § 3104.

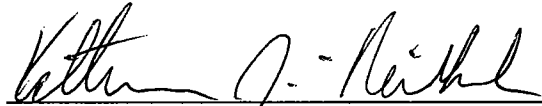
3. That on March 28, 2007, the Return of Service was filed, a copy of which is attached as Exhibit A.

4. That on March 29, 2007, the said Katherine J. Neikirk, Esquire, caused a copy of the Notice, attached hereto as Exhibit B, to be mailed by Registered Mail to the following defendant: Hershey Canada, Inc.

5. That on April 30, 2007, Katherine J. Neikirk, Esquire, received from the postal authority the international return receipt attached hereto as Exhibit C.

6. That the said receipt has the same registered number, to-wit: RB 420 634 065 US, as the receipt received at the time of the mailing of said notice, attached hereto as Exhibit D.

Dated: May 7, 2007



Katherine J. Neikirk (#4129)

MORRIS JAMES LLP

500 Delaware Avenue, Suite 1500

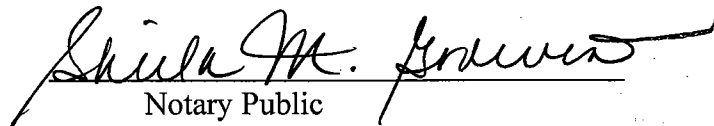
Wilmington, Delaware 19801-1494

302.888.6808

kneikirk@morrisjames.com

Attorneys for Plaintiff Solae, LLC

SWORN TO AND SUBSCRIBED before me the day and year aforesaid:

  
Notary Public

**SHEILA M. GODWIN**  
Notary Public - State of Delaware  
My Comm. Expires Mar. 17, 2009

## **EXHIBIT A**

**UNITED STATES DISTRICT COURT**

\_\_\_\_ District of DELAWARE

SOLAE, LLC,

**SUMMONS IN A CIVIL CASE**

Plaintiff,

V.

CASE NUMBER: 07-140

HERSHEY CANADA, INC.,

Defendant.

TO: (Name and address of Defendant)

Hershey Canada, Inc.  
c/o Delaware Secretary of State  
401 Federal Street, Suite 3  
Dover, DE 19901

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

P. Clarkson Collins, Jr.  
Katherine J. Neikirk  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, DE 19801

an answer to the complaint which is served on you with this summons, within Twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

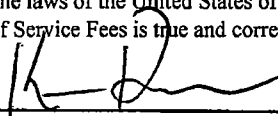
**PETER T. DALLEO**

CLERK

3/9/07  
DATE

  
By (DEPUTY CLERK)

• AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(I)	DATE	3/27/07
NAME OF SERVER (PPJNT) KEVIN DUNN	TITLE	SPECIAL PROCESS SERVER
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____		
<input type="checkbox"/> Returned unexecuted: _____ _____		
<input checked="" type="checkbox"/> Other (specify): SERVED: HERSHEY CANADA, INC C/O THE DELAWARE SECRETARY OF STATE DOVER, DE COPIES THEREOF WERE ACCEPTED BY KAREN CHR BANAEU _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 30%;"> <p>Executed on <u>3/27/07</u></p> <p style="text-align: center; font-size: small;">Date</p> </div> <div style="width: 60%; text-align: center;">   <p style="font-size: small;">Signature of Server</p> <p>BRANDYWINE PROCESS SERVERS, LTD.            P.O. BOX 1360            WILMINGTON, DE 19899-1360            302- 475-2600</p> </div> </div> <div style="margin-top: 20px;"> <p><b>ALSO SERVED</b>            PLAINTIFFS' RULE 7.1 DISCLOSURE STATEMENT            CIVIL COVER SHEET            NOTICE OF AVAILABILITY OF U.S. MAGISTRATE JUDGE            MOTION &amp; ORDER FOR ADMISSION PRO HAC VICE</p> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

## **EXHIBIT B**

# Morris James LLP

Jason C. Jowers  
302.888.6860  
jjowers@morrisjames.com

March 29, 2006

**VIA INTERNATIONAL REGISTERED MAIL/  
RETURN RECEIPT REQUESTED**

Hershey Canada, Inc.  
2350 Matheson Blvd. E  
Mississauga, Ontario, Canada L4W 5E9

**Re: Solae, LLC v. Hershey Canada, Inc., C.A. No. 07-140-JJF**


To Whom It May Concern:

On March 27, 2007, Plaintiff served Hershey Canada, Inc. with Process (Summons) and the Complaint in this matter by serving the Secretary of State of Delaware. Pursuant to *10 Del. C. § 3104*, such service is as effectual to all intents and purposes as if it had been made upon Hershey Canada, Inc. personally within Delaware.

Enclosed are the following documents:

1. Summons;
2. Solae, LLC's Complaint against Hershey Canada, Inc.;
3. Plaintiff's Rule 7.1 Disclosure Statement;
4. Civil Cover Sheet;
5. Notice of Availability of a United State Magistrate Judge to Exercise Jurisdiction;  
and
6. Motion and Order for Admission *Pro Hac Vice* of Scott Winkelman, Esquire and Monica M. Welt, Esquire.

Sincerely,



Jason C. Jowers

JCJ/smg  
Enclosures

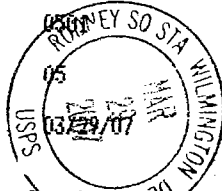
cc: P. Clarkson Collins, Esquire (w/out enclosures)  
Katherine J. Neikirk, Esquire (w/out enclosures)

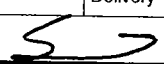
1544701/1

## **EXHIBIT C**



Registered No. **RB720684065 US**

Date Stamp  


To Be Completed By Post Office	Reg. Fee	\$7.90	
	Handling Charge	\$0.00	Return Receipt \$1.85
	Postage	\$1.70	Restricted Delivery \$0.00
	Received by 		

Customer Must Declare Full Value \$ **\$0.00**

☐ With Postal Insurance  
☐ Without Postal Insurance

Domestic Insurance up to \$25,000 is included in the fee. International Indemnity is limited. (See Reverse).

**OFFICIAL USE**

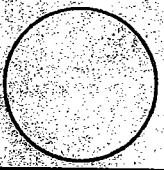
**SMG**


To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed

FROM	Morris James LLP P.O. Box 2306 Wilm DE 19809
TO	Hershey Canada Inc. 230 Matheson Blvd E Mississauga, Ontario Canada L4W 5E9

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer  
 May 2004 (7530-02-000-9051) (See Information on Reverse)  
 For domestic delivery information, visit our website at [www.usps.com](http://www.usps.com)

## **EXHIBIT D**

Completed by the office of origin (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi) <input checked="" type="checkbox"/> Registered Article (Envoi recommandé) <input type="checkbox"/> Letter (Lettre) <input type="checkbox"/> Printed Matter (Imprimé) <input type="checkbox"/> Other (Autre)	<input type="checkbox"/> Recorded Delivery (Envoi à livraison attestée) <input type="checkbox"/> Express Mail International
	Insured Parcel (Colis avec valeur déclarée) <input type="checkbox"/>	Insured Value (Valeur déclarée) Article Number <b>RB4206340658</b>
	Office of Mailing (Bureau de dépôt)	Date of Posting (Date de dépôt) <b>8/29/07</b>
Completed at destination (A compléter à destination.)	Address Hershey Canada, Inc. 2350 Matheson Blvd. E Mississauga, Ontario, Canada L4W 5E9	
	This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination; or, (3) the employee of the office of destination. This signed form will be returned to the sender by the first mail. (Cet avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination, ou, si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à l'expéditeur.)	
	<input type="checkbox"/> The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)	Date 
	Signature of Addressee (Signature du destinataire)	Office of Destination Employee Signature (Signature de l'agent du bureau de destination)
PS Form 2865, February 1997 (Reverse)		

 <b>UNITED STATES POSTAL SERVICE®</b>	<b>Return Receipt for International Mail</b> (Registered, Insured, Recorded Delivery, Express Mail)
Administration des Postes des États-Unis d'Amérique	<b>Par Avion</b>
Return by the quickest route (air or surface mail), a découvert and postage free.....	The sender completes and indicates the address for the return of this receipt. (A remplir par l'expéditeur, qui indiquera son adresse pour le renvoi du présent avis.)
A renvoyer par la voie la plus rapide (aérienne ou de surface), à découvert et en franchise de port.	Name or Firm (Nom ou raison sociale) Morris James, LLP Attention: Katherine J. Neikirk, Esquire P.O. Box 2306 Wilmington, DE 19899
	UNITED STATES OF AMERICA États-Unis d'Amérique
PS Form 2865, February 1997	<b>Avis de réception</b> <b>CN07 (Old C5)</b>